

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

LARRY DONNEL EVANS #R9326

PETITIONER

VS.

CIVIL ACTION NO. 3:15CV548TSL-RHW

RON KING, ET AL.

RESPONDENTS

ORDER

This cause is before the court on the December 14, 2015 report and recommendation of Magistrate Judge Robert H. Walker, recommending that the court grant respondent's motion to dismiss Evans' § 2254 petition. Evans has filed an objection to the report and recommendation, and the court, having considered the objections, now concludes that the objection is not well taken and should be overruled and that the report and recommendation should be adopted as the opinion of the court.<sup>1</sup>

IT IS, THEREFORE, ORDERED that the report and recommendation of United States Magistrate Robert H. Walker entered on December 14, 2015, be, and the same is hereby adopted as the finding of this court. Accordingly, it is ordered that respondents' motion to dismiss is granted and the petition for writ of habeas corpus is hereby dismissed with prejudice.

It is further ordered that a certificate of appealability is denied because petitioner has failed to demonstrate that "jurists

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<sup>1</sup> While Evans' case involves a guilty plea, inexplicably his objection appears to be premised on an allegation that the trial court gave an erroneous jury instruction.

of reason would find it debatable whether [this] court was correct in its procedural ruling," and has also failed to show that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right...." Slack v. McDaniel, 529 U.S. 473, 484, 120 S. Ct. 1595, 146 L. Ed. 2d 542 (2000).

A separate judgment will be entered herein in accordance with this order as required by Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED this 1st day of February, 2016.

/s/ Tom S. Lee  
UNITED STATES DISTRICT JUDGE